

LEGAL DEPARTMENT
IMMIGRANTS'
RIGHTS PROJECT



June 19, 2009

Via Facsimile and Fedex

Peter Skinner
Assistant U.S. Attorney
United States Attorney's Office
Southern District of New York
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AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
IMMIGRANTS'
RIGHTS PROJECT

Re: *Am. Civil Liberties Union v. Dep't of Def.*, No. 1:04-CV-4151

Dear Peter,

PLEASE RESPOND TO:
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TREASURER

On April 20, 2009, the Court ordered the government to produce documents relating to the contents of the interrogation videotapes destroyed by the Central Intelligence Agency in 2005. *See* Order Regulating Gov't's Proposed Work Plan ¶ 3 (Apr. 20, 2009) (dkt. no. 339). On June 8, 2009, the government produced a *Vaughn* index and declaration of those materials, withholding them in their entirety under exemptions 1, 3, 5, and 6 of the Freedom of Information Act. *See* 5 U.S.C. § 552(b).

Pursuant to our agreement, we hereby notify you of the withholdings that we intend to challenge.

We intend to challenge the withholding of the following information:

1. Descriptions of the implementation or application of interrogation techniques, and "details of specific interrogations where EITs ['enhanced interrogation techniques'] were applied," *see* Declaration of Leon Panetta ¶¶ 10-12, dated June 8, 2009 ("Panetta Decl.");
2. All information withheld under exemption 5, *see, e.g., id.* ¶ 13 & n.2;
3. The names of CIA-interrogation contractors or consultants, *see, e.g.,* Pls.' Reply to Defs.' Fourth Cross-Mot. for Partial Summ. J. & Opp'n to Pls.' Mot. for Summ. J. 23-29 (June 12, 2009) (dkt. no. 353); and
4. Information related to the operation and implementation of the CIA's secret detention and interrogation program, including the identities of

foreign countries that assisted the CIA in carrying out that program, *see* Panetta Decl. ¶ 6.

We do not intend to challenge withholding of the following information:

1. "intelligence provided by captured terrorists," Panetta Decl. ¶ 6, and "intelligence that was being provided to the field and intelligence that was being gathered from the interrogations," *id.* ¶ 7;
2. "intelligence requirements that CIA prioritized at specific points in time," *id.* ¶ 6;
3. "what the intelligence community did not know about our enemies in certain time frames, i.e., intelligence gaps," *id.*;
4. "information that could identify CIA officers . . . engaged in clandestine counterterrorism operations," *id.*, including "[i]nformation concerning the names and titles of CIA personnel," *id.* ¶ 8; and
5. "information concerning CIA organization, functions, and filing information," *id.* ¶ 8.

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

Sincerely,



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